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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203730
Party	Defendant Super T Financial Inc. DBA LoanZilla
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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Zillow Inc.	:	
Opposer,	:	Opposition No.: 91203730
v.	:	
Super T Inc., d/b/a Loanzilla	:	Serial No.: 85/316,446
Applicant.	:	
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TRIAL BRIEF OF SUPER T INC., d/b/a LOANZILLA

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TRIAL BRIEF OF SUPER T INC., d/b/a LOANZILLA

I. INTRODUCTION

Applicant, Super T Financial Inc. (“Applicant”), a licensed mortgage brokerage firm in the State of Washington, seeks registration of its mark “Loanzilla” in standard characters (“Applicant’s mark”) for mortgage brokerage services. Opposer, Zillow Inc. (“Opposer”), a provider of non-downloadable database software, data storage software, informational services, and online marketplaces in the fields of real estate, consumer goods, and consumer services, is the owner of trademark registrations for the Zillow and Zillow.com marks (“Opposer’s marks”). Opposer does not provide, broker, nor originate mortgages. Opposer is also not licensed in any state to provide mortgage brokerage services, which is required in each state that one provides such services. And yet, Opposer seeks to prevent Applicant from registering Loanzilla to identify mortgage brokerage services by

asserting that Applicant's use of Loanzilla for such purpose is likely to confuse consumers pursuant to § 2(d) of the Lanham Act. Opposer seeks to assert monopolistic rights to a string of four letters – "zill" – that make up part of its marks, regardless of the overall differences between its marks and Applicant's mark, and regardless of the lack of overlap in services identified by the marks. Opposer asserts that the arrangement of the four letters "zill" is unique to Opposer's marks, and that Opposer owns the only active unopposed trademark filings bearing the "zill" string (Dkt. 26, PDF. 17). As Applicant shows here, these assertions are plainly false, and push well beyond the boundaries of any objectively valid version of trademark law.

II. STATEMENT OF FACTS

A. Evidence of Record

Applicant has taken no testimony, but submitted a Notice of Reliance¹ during Applicant's trial period. Applicant here relies on this Notice. Applicant also relies on parts of Opposer's testimony, exhibits, and Notice of Reliance, which will all be referred to according to corresponding T.T.A.B. docket and PDF numbers (*e.g.* Dkt. #, PDF. #).

¹ Applicant first submitted its Notice of Reliance on 12 July 2013, but shortly after noticed that the exhibit numbers has been removed when sanitizing the document. Applicant renumbered the exhibits individually so that the identifying numbers would be readily visible and easy to locate, and resubmitted the exhibits on 16 July 2013; however, the electronic filing process deleted many of the exhibit numbers. Therefore, Applicant will refer to the documents using their docket and PDF numbers. On 8 August 2013, Applicant resubmitted the listing of the exhibits contained in the Notice in order to include additional detail on their relevance to the proceedings. No new exhibits were added after the close of Applicant's trial period.

In addition, at the end of discovery, the parties agreed to sidestep authentication formalities for the numerous documents exchanged during discovery by agreeing that any documents so exchanged would be considered authenticated and thus admissible without requiring a person to testify that a document is what it purports to be on its face. Thus, all of the documents exchanged during discovery are what they appear to be. This presumption of authentication, however, does not extend to any other information that such authenticated documents contain, and thus such information may not be accurate and/or credible. For example, an annual report provided by the Opposer during discovery is automatically authenticated as the Opposer's annual report, but the figures and assertions contained in the report are not presumed accurate and/or credible without verification. Thus, the Applicant disputes the weight, if any, that should be given to some of the evidence cited in Opposer's trial brief.

B. Prior History of the Proceeding

Applicant, Super T Financial Inc. is a mortgage brokerage firm licensed in the State of Washington. On 10 May 2011, Applicant filed an intent-to-use application for federal registration of its Loanzilla trademark, Serial No. 85/316,446, for mortgage brokerage services (Int'l Class 36). Applicant began using its mark to identify its mortgage brokerage services at least as early as June 2010 (Dkt. 23, PDF. 30 and PDF. 235).

Opposer filed its first trademark application on 29 September 2004 for its mark "Zillow.com" to identify consumer software and computer data storage

software in the area of real estate, consumer goods and consumer services².

Opposer filed six additional trademark applications in March 2005 for its marks “Zillow” and “Zillow.com” to identify computer programs and services to provide information and data storage related to real estate. These seven applications have since matured into seven of Opposer’s eight pleaded registrations³. On 3 November 2011, the day before filing an extension of time to initiate this proceeding, Opposer filed its first and only trademark registration application that recites informational computer-based services in the field of mortgages (Serial No. 85/464019). This application has since matured into Opposer’s eighth pleaded registration (Reg. No. 4201269). On 4 November 2011 and again on 9 December 2011, Opposer filed its first and second requests for extension of time to oppose the registration of Applicant’s mark for mortgage brokerage services.

III. LEGAL STANDARD

Likelihood of confusion is an issue of fact. Warner Bros. Inc. v. American Broadcasting Companies, Inc., 222 U.S.P.Q. 101 (2d Cir. 1983). As in civil litigation, the plaintiff bears the burden of proving by a preponderance of the evidence that a likelihood of confusion exists. David Sherman Corp. v. Heublein, Inc., 144 U.S.P.Q. 249 (8th Cir. 1965).

The applicable legal standard for a determination of likelihood of confusion under Section 2(d) of the Lanham Act is based on an analysis of all of the probative facts in evidence relevant to the factors bearing on the likelihood of confusion

² U.S. Reg. 3175031

³ U.S. Reg. Nos. 3150074, 3437691, 3332886, 3565882, 3437690, 3493872

issue. In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 1361, 177 U.S.P.Q. 563 (CCPA 1973)⁴. No one du Pont factor is dispositive and the emphasis placed on each factor may vary depending on the circumstances of the case. (*Id.*)

In this proceeding, the factors most relevant to a likelihood of confusion determination are the dissimilarity of the marks, the lack of overlap of the services identified by each mark, the conditions under which sales are made and the buyers to whom sales are made, and the lack of renown of Opposer's marks.

IV. ARGUMENT

A. du Pont Factor 1 – Dissimilarity of the Marks

The first DuPont factor requires examination of the similarity or dissimilarity of the marks in their entirety as to connotation, sound, and

⁴ The du Pont factors are:

- (1) The similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.
- (2) The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use.
- (3) The similarity or dissimilarity of established, likely - to - continue trade channels.
- (4) The conditions under which and buyers to whom sales are made, i.e. "impulse" vs. careful, sophisticated purchasing.
- (5) The fame of the prior mark (sales, advertising, length of use).
- (6) The number and nature of similar marks in use on similar goods.
- (7) The nature and extent of any actual confusion.
- (8) The length of time during and conditions under which there has been concurrent use without evidence of actual confusion.
- (9) The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark).
- (10) The market interface between applicant and the owner of a prior mark: (a) a mere "consent" to register or use. (b) agreement provisions designed to preclude confusion, i.e. limitations on continued use of the marks by each party. (c) assignment of mark, application, registration and good will of the related business. (d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion.
- (11) The extent to which applicant has a right to exclude others from use of its mark on its goods.
- (12) The extent of potential confusion, i.e., whether de minimis or substantial.
- (13) Any other established fact probative of the effect of use.

appearance. In re E.I. du Pont de Nemours & Co., 476 F.2d 1357, 1361. As discussed in greater detail below, Opposer's marks and Applicant's mark are highly dissimilar in their respective connotation, sound, and appearance.

1. The Connotation of Each of the Marks

The meaning or connotation of a mark must be determined in relation to the named goods or services. In re Sears, Roebuck and Co., 2 U.S.P.Q2d 1312 (TTAB 1987); and In re British Bulldog, Ltd., 224 U.S.P.Q. 854 (TTAB 1984). In cases where marks share a string of letters but not a common term, and where the connotation of the marks is entirely different even though the goods may overlap, it has been determined as a matter of law that a likelihood of confusion cannot exist. See Ava Enterprises Inc. v. P.A.C. Trading Group, Inc.⁵, Opposition No. 91175014, 86 U.S.P.Q2d 1659 (TTAB 2008) (precedential).

Opposer's marks and Applicant's mark have entirely different connotations and are easily discernible by even an ordinary purchaser. Opposer admits that its pleaded marks are arbitrary, and that when choosing the mark, Opposer intended to give the following meaning: "'Z' is for the zillion data points that you need to figure out what to do with your home; the 'illow' is like pillow, because home

⁵ "In particular, we judicially notice that the word BOSS in opposer's pleaded mark and the word BOOSTER in applicant's applied-for mark are completely different in meaning. No matter what meaning, if any, purchasers might ascribe to the word "boss," the connotation of Opposer's mark cannot be found similar to that of applicant's mark... Opposer's suggestion in its responsive brief that the marks are nonetheless confusingly similar because the terms BOSS and BOOSTER both begin with the letter "B," share the same letters "O" and "S," and sound similar is not persuasive inasmuch as it ignores the fact that the words, as well as the marks as a whole, are entirely different. We therefore conclude that, notwithstanding the overlap of the respective goods, a likelihood of confusion cannot exist as a matter of law and that this case should be decided based on the first du Pont factor alone as being dispositive."

buying is not just data, it's emotional, it's something that people are connected to, it's where you want to lay your head down at night, like a pillow.”(Dkt. 20, PDF. 32). Opposer’s explanation of the meaning of Opposer’s marks remains on Opposer’s website today (Dkt. 15, PDF. 231). The commercial impression created by Opposer’s marks is demonstrated in a newspaper article from the *Kansas City Star* published in 2006, which reiterates Opposer’s “zillions of data points and a pillow” connotation with the whimsical headline “A Little Zillow Talk” (Dkt. 15, PDF. 224).

Applicant’s mark is a suggestive mark, combining the descriptive term “loan” with the well-known suffix “zilla”. Applicant chose this suffix due to the notoriety and great fame of the movie from which it originates – “Godzilla” (Dkt. 17, PDF. 200). To further encourage the association of Applicant’s mark with a Godzilla-like image, Applicant’s mark is often presented with a green lizard tail trailing from the “z” in “Loanzilla” (Dkt 23, PDF. 235 – 236).

Opposer suggests that the arrangement of the four letters “zill” in Opposer’s marks is unique to its marks (Dkt. 26, PDF. 17; Opposer’s Brief at pg. 12). Applicant strongly disagrees. As explained below, the “zilla” suffix in Applicant’s mark is ubiquitous in today’s pop culture and conveys a commercial impression of large, strong, and dominating – very different from “zillions of data points and a pillow”.

It is hardly an exaggeration to say that most Americans, who are of an age to purchase a home, would be very familiar with the movie “Godzilla”, which first played in theaters in 1954 (Dkt. 23, PDF. 231 - 232). Since that time, the fictional Godzilla character has gone on to star in dozens of other movies that bear his name, often playing a hero and saving the planet from other monsters. (*Id.*) Indeed,

another “Godzilla” movie⁶ is scheduled for release in 2014. Godzilla even has his own star on the Hollywood walk of fame (Dkt. 23, PDF. 242). It is not a stretch to say that he (or she) may be one of the most celebrated monster-stars of our time. At the very least, Godzilla is a household name.

Godzilla’s prolific and well-known career has made the suffix “zilla” ubiquitous in pop culture to suggest an erect standing lizard/reptile, and metaphorically to suggest characteristics such as large, strong, and dominating (Dkt. 23, PDF. 229). The literal connotation of the “zilla” suffix can be seen in the use of registered marks such as “Nomzilla”, which is often portrayed with a picture of a cute dinosaur eating a bowl of sushi (Dkt. 23, PDF. 95 - 99), or the registered mark “Zilla”, which is often displayed with reptile pictures to identify reptile-related products (Dkt. 23, PDF. 204 - 208, 227 - 228). The metaphoric connotation of the “zilla” suffix is demonstrated in the popular television reality program “Bridezillas”, which first aired in 2004, long before the launch of Opposer’s website⁷, and is currently in its 10th season. The “Bridezillas” mark registered in 2006 (Dkt. 23, PDF. 48 - 53). The program “Bridezillas” exposes the featured bride-to-be as uncontrollable and bullying (Dkt. 23, PDF. 52). Indeed, the “zilla” suffix is sometimes used to describe some of the excesses of American culture. For example, Applicant provides a recent *Newsweek* article titled “*The Me, Me, Me Wedding; How America is exporting its Bridezilla Culture*” (Dkt. 23, PDF. 53).

⁶ The official Godzilla movie trailer is available at <http://www.youtube.com/watch?v=bF9E4hB6jB4>

⁷ In its pleadings, Opposer claims rights to Opposer’s marks dating back to 2004; however, the earliest claimed date of first use in any of Opposer’s pleaded registrations is February 2006, and Opposer provides no evidence of use prior to its website launch in 2006.

Opposer asserts that “zill” is unique to its marks and that “the only active trademark filings that include “zill” at the USPTO are owned by Zillow, or are actively being opposed by Zillow” (Dkt 26, PDF. 17). Applicant respectfully asserts that Opposer is mistaken. In Table 1 below, Applicant provides 40 live federal registrations bearing a string of the four letters “zill”. Title and status copies for each have been provided as referenced in Table 1.⁸

TABLE 1 – Third party registrations for marks that contain the letters “zill”

Mark⁹	U.S. Reg. No.¹⁰	Registration and current TSDR report¹¹	Goods/Services¹²	Additional evidence of actual use of mark¹³
Archzilla	3,612,254	Dkt. #23, PDF. 100 - 103	Delivery of goods by truck	
Armedzilla	4,146,204	Dkt. #23, PDF. 79 - 82	Providing access to databases in the fields of social networking ... and access to third party web sites	Dkt. #23, PDF. 83
Bridezillas	3,099,409	Dkt. #23, PDF. 48 - 51	Entertainment programs featuring weddings	Dkt. #23, PDF. 52 - 53
Bugzilla	3,597,655	Dkt. #23, PDF. 54 - 57	Insect repellant	
Bosszilla	2,515,370	Dkt. #23, PDF. 104 - 107	Video tapes/discs that show a difficult employer	
Bulb-zilla	3,282,121	Dkt. #23, PDF. 108 - 110	Live plants	
Carezilla	4,170,450	Dkt. #23, PDF. 11 - 115	Veterinary preparations; Food for babies; Material for stopping teeth; artificial limbs	
Casca Zilla	3,864,001	Dkt. #23, PDF. 117 - 119	Beer, ale and malt liquor	
ChillZilla	4,157,173	Dkt. #23, PDF. 120 - 123	Metal cryogenic storage tanks	

⁸ See T.M.E.P §1207.01(d)(iii) “[T]hird-party registrations are similar to dictionaries showing how language is generally used.

⁹ Name of the mark

¹⁰ Registration number of the mark in column 1

¹¹ Location in the record of the current title and status copy of the mark

¹² General description of goods/services identified by the mark

¹³ Location in the record where additional information showing current use of the mark may be found

Filezilla	4,217,670	Dkt. #23, PDF. 66 - 69	Computer software for managing files	Dkt. #23, PDF. 70 - 71
Freightzilla	3,813,823	Dkt. #23, PDF. 125 - 127	Shipment processing over computer networks	
Fruitzilla	3,700,072	Dkt. #23, p df. 129 - 131	Candy	
Guardzilla	4,349,771	Dkt. #23, PDF. 132 - 134	Mouth guards	
IceZilla	4,308,060	Dkt. #23, PDF. 135 - 138	Beverage cooling ice molds	
Moldzilla	4,044,836	Dkt. #23, PDF. 139 - 142	Mold remediation services	
Mozilla	3,187,334	Dkt. #23, PDF. 60 - 63	Computer programs for access to internet	Dkt. #23, PDF. 64 - 65
Mow-Zilla	3,648,761	Dkt. #23, PDF. 143 - 146.	Riding lawn mowers	
Nomzilla	4,286,103	Dkt. #23, PDF. 95 - 98	Restaurant services	Dkt. #23, PDF. 99
Nursezilla	3,704,733	Dkt. #23, PDF. 148 - 150	Providing on-line forums for transmission of messages among health care professionals	
Office Zilla	4,200,024	Dkt. #23, PDF. 151 - 154	Online and retail store services for office products	
orgzilla!	3,794,440	Dkt. #23, PDF. 156 - 158	Computer software for use in customer relationship management	
Popzilla	4,288,072	Dkt. #23, PDF. 90 - 93	Popcorn	Dkt. #23, PDF. 94
Rackzilla	3,675,433	Dkt. #23, PDF. 159 - 162	Steering gear mechanisms for land vehicles	
RevZilla	4,186,105	Dkt. #23, PDF. 84 - 87	Online retail store service featuring motorcycle apparel	Dkt. #23, PDF. 88 - 89
Shopzilla	3,119,435	Dkt. #23, PDF. 72 - 76	Promoting the sale of goods and services of others; providing databases featuring consumer products and merchants information	Dkt. #23, PDF. 77 - 78
Schoolzilla	4,356,949	Dkt. #23, PDF. 163 - 166	Analyzing and compiling data for school performance	
Sportzilla	3,638,985	Dkt. #23, PDF. 167 - 170	Aero-dynamic fairings for vehicles	
Stripezilla	3,643,122	Dkt. #23, PDF. 171 - 175	Paint	
Superzilla	3,761,056	Dkt. #23, PDF. 176 - 178	All purpose cleaners, adhesive remover, paint remover, and rust remover	
Tankzilla	4,269,402	Dkt. #23, PDF. 179 - 182	Toy vehicles	
Techzilla by Qwest	3,576,075	Dkt. #23, PDF. 183 - 186	Computer installation and repair	
Troutzilla	4,088,855	Dkt. #23, PDF. 187 - 190	Online retail store services featuring clothing	
Tweet Zilla	4,156,492	Dkt. #23,	Fluid control machines and	

		PDF. 191 - 195	instruments	
Zilla	3,539,183	Dkt. #23, PDF. 196 - 199	Prerecorded video discs	
Zilla	3,829,645	Dkt. #23, PDF. 201 - 203	Pipes and mounting systems	
Zilla	3,386,521	Dkt. #23, PDF. 204 - 208	Vivarium, terrarium, and aquarium supplies	Dkt. #23, PDF. 227 - 228
Zilla	4,343,731	Dkt. #23, PDF. 209 - 212	Fishing supplies	
Zilla Combos	4,034,566	Dkt. #23, PDF. 213 - 216	Prepared meals	
ZillaMail	3,388,657	Dkt. #23, PDF. 217 - 220	Email services	
Zilla-Tool	3,366,465	Dkt. #23, PDF. 221 - 223	Hand tools	

Two of the marks included in Table 1 – “Shopzilla” and “Bosszilla” – were registered prior to the registration of any of Opposer’s marks. And, the well-known “Mozilla” mark was registered prior to seven of Opposer’s eight pleaded registrations. Four of the marks included in Table 1 are for “Zilla” as a stand-alone word to identify a variety of goods ranging from vivarium supplies to video discs. Three of the marks in Table 1 – “ZillaCombos”, “ZillaMail”, and “ZillaTool” – include “Zilla” as a prefix to identify prepared meals, email services, and hand tools, respectively. And finally, **thirty-three** of the marks included in Table 1 include “zilla” as a suffix or a separate last word. (emphasis added)

This sampling of registered marks strongly suggests that “zill” is hardly a unique arrangement of letters. These registrations also demonstrate the popular use of “zilla” as a suffix, and the ubiquity with which the suffix is used in connection with all types of goods and services.

In addition to the registered marks presented in Table 1, there are many other marks in current use that include “zilla” as a suffix. For example, the Checker’s fast food restaurant chain sells a “Baconzilla Burger” (Dkt. 23, PDF. 241).

Rapper “V-Zilla” - often referred to as simply “Zilla” – has also adopted the popular monster connotation (Dkt. 23, PDF. 225 - 226). Another example is Mozilla’s award-winning Go!Zilla Download Manager (downloadable at gozilla.com) (Dkt. 23, PDF. 233 - 234). In 2000, PC Magazine awarded Go!Zilla its prestigious Shareware Award for Best Utility, beating out well-known web utilities such as Napster, and doing so six-years before Zillow even launched. Other examples of commercial use of marks and domain names that use the suffix “zilla”, which are not registered but are currently used in commerce, include “Clonezilla” for software (Dkt. 23, PDF. 237), “RarZilla” for software (Dkt. 23, PDF. 246), “Eventzilla” for conference management software (Dkt. 23, PDF. 244), “Zillamedia” for a collection of photography-related websites (Dkt. 23, PDF. 245) “Wikizilla”, which claims to be the encyclopedia of all things Godzilla (Dkt. 23, PDF. 246 - 247), “Rapzilla” for a Christian Hip Hop and Rap Music Online Magazine (Dkt. 23, PDF. 248), and “The Fedzilla Project” for an online information website that discusses national issues (Dkt. 23, PDF. 249).

The multitude of marks that include “zilla” clearly demonstrates the popularity and extensive use of “zilla” with its literal and/or metaphoric connotation in trademarks. Applicant’s Loanzilla mark is but another example of a mark that uses the “zilla” string to connote large, strong, and dominating, which provides a commercial impression completely unrelated to Opposer’s commercial impression of “zillions of data points and a pillow” (Dkt. 15, PDF. 231, 234). Thus, even if the Opposer’s and Applicant’s services are considered to overlap, a likelihood of confusion cannot exist because the connotations of the marks are

entirely different. *See* Ava Enterprises Inc. v. P.A.C. Trading Group, Inc.¹⁴,
Opposition No. 91175014, 86 U.S.P.Q2d 1659 (TTAB 2008) (precedential).

Therefore, this component of duPont factor 1 strongly favors Applicant.

2. Appearance and Sound of the Marks

Applicant's mark and Opposer's mark differ in many respects in their
respective appearance and pronunciation.

First, Applicant's mark has three syllables and Opposer's mark has two
syllables. The difference in the number of syllables in each mark makes the marks
sound different when read or pronounced and such differences are taken into
consideration in a likelihood of confusion analysis. Parfums de Coeur, Ltd. v.
Lazarus, 83 U.S.P.Q2d 1012 (TTAB 2007)(Comparing the marks BOD MAN and
BODYMAN – case dismissed for no likelihood of confusion).

Second, "Loanzilla" begins with an "L", and "Zillow" begins with a "Z". The
appearance and pronunciation of "L" and "Z" could not be more different.

And third, "ow" and "a" do not sound the same, despite Opposer's
contention that they do. When "Zillow" is read or spoken, the "ow" portion has a
long "o" sound like the words "oh" and "pillow". When "Loanzilla" is read or

¹⁴ "In particular, we judicially notice that the word BOSS in opposer's pleaded mark and the word BOOSTER in applicant's applied-for mark are completely different in meaning. No matter what meaning, if any, purchasers might ascribe to the word "boss," the connotation of Opposer's mark cannot be found similar to that of applicant's mark... Opposer's suggestion in its responsive brief that the marks are nonetheless confusingly similar because the terms BOSS and BOOSTER both begin with the letter "B," share the same letters "O" and "S," and sound similar is not persuasive inasmuch as it ignores the fact that the words, as well as the marks as a whole, are entirely different. We therefore conclude that, notwithstanding the overlap of the respective goods, a likelihood of confusion cannot exist as a matter of law and that this case should be decided based on the first du Pont factor alone as being dispositive."

spoken, the “a” portion of “zilla” has the short u sound like the words “huh” and “cut”.

Because “Loanzilla” and “Zillow” have different first letters (L and Z), different endings (“a” and “ow”), and a different number of syllables (three and two), the marks are visually and aurally different. And because these visual and aural differences are compounded with the differences in the connotations of the marks, Applicant’s and Opposer’s marks are not that similar.

Therefore, this duPont factor strongly favors Applicant.

B. duPont Factor 2 – Dissimilarity of the Goods and Services

The second duPont factor pertains to the services recited in the pleaded registrations. The issue here is not whether purchasers would confuse the services, but rather whether there is a likelihood of confusion as to the source, affiliation, or sponsorship thereof. Motion Picture Association of America, Inc. v. Respect Sportswear, Inc., 83 U.S.P.Q2d 1555 (TTAB 2007) (precedential).

Applicant is a licensed mortgage brokerage firm in the State of Washington and provides mortgage brokerage services (Dkt. 17, PDF. 173 – 178). Opposer does not provide, broker, nor originate mortgages (Dkt. 13, PDF. 18, ROG. 42; Dkt. 23, PDF. 254 – 255 at 255). Opposer also does not provide real estate brokerage services. According to Opposer’s pleaded registrations, Opposer provides non-downloadable software, data storage, marketplace and information services related to real estate and consumer goods. Furthermore, Opposer underscores the fact

that it does not provide, broker, nor originate mortgages on Opposer's "Zillow Mortgage Marketplace" webpage. Specifically, Opposer states:

Zillow Mortgage Marketplace IS NOT:

A mortgage broker

Zillow Mortgage Marketplace is not in the business of brokering loans. We are not a licensed broker and have no part in the financial part of a mortgage transaction.
(emphasis in original)

(Dkt. 23, PDF. 254 – 255 at 255)

Despite the fact that Opposer highlights the obvious difference between the services of Opposer and Applicant on its Zillow Mortgage Marketplace webpage, Opposer still argues that consumers are likely to be confused as to the source of Applicant's services and Opposer's services.

In an attempt to support this assertion, Opposer cites Century 21 Real Estate Corp. v. Century Life of America, 970 F.2d 874, 23 U.S.P.Q2d 1698 (Fed. Cir. 1992) (noting that the plaintiff provided both real estate brokerage services and mortgage brokerage services). Applicant respectfully asserts that Opposer inappropriately applies this case to the facts of this proceeding. First, in Century 21, the two marks shared an identical term with an identical meaning - "Century". Here, Opposer's marks and Applicant's mark are dissimilar in appearance, sound, and meaning. Second, in Century 21, the virtually identical marks were used to identify identical services - insurance brokerage and underwriting. (*Id.* at 877). And, although Opposer cites Century 21 to assert the relatedness of mortgage brokerage services and real estate brokerage services, Opposer does not provide

either mortgage brokerage or real estate brokerage services. Moreover, these services are not recited in Opposer's pleaded registrations.

In a similar attempt to support its assertion that the services of Opposer and Applicant are related, Opposer cites the non-precedential *ex parte* appeal In re Univ. Fed. Cred. Union¹⁵ 2007 WL 2219700 (Ser. No. 78439822) (TTAB 2007) (Dkt. 26, PDF. 21). Applicant respectfully asserts that this case is not applicable to these proceedings. As stated above, the case is an *ex parte* non-precedential appeal. There the examining attorney and the Applicant limited their argument to only three of the thirteen duPont factors (similarity of the marks, similarity of the services, and similarity of trade channels), and since no evidence was submitted for the other factors, the Board was required to limit its discussion to those three factors without the context of the other ten factors.

In this proceeding, the likelihood of confusion analysis is not similarly skewed – here, all duPont factors are considered. Furthermore, notwithstanding the term “members”, the marks “MEMBERS HOME ADVISOR” and “HOME ADVISOR” are identical in appearance, sound, and connotation. The opposite holds true for Opposer's marks and Applicant's marks - which are dissimilar in overall commercial impression. For these reasons, Applicant asserts that In re Univ. Fed. Cred. Union is not applicable in this proceeding.

In a final attempt to support its assertion that the services of Opposer and Applicant are related, Opposer discusses at length Freedom Federal Sav. & Loan Ass'n v. Way, 217 U.S.P.Q. 971 (TTAB 1981). In that case, the Board held that

¹⁵ Available at <http://e-foia.uspto.gov/Foia/RetrievePDF.?system=TTABIS&flNm=78439822-07-23-2007>

“Freedom Savings”, as used to identify a financial institution that provides mortgages, is confusingly similar to “Freedom Realty”, as used to identify real estate brokerage services. But, the Board’s determination of likelihood of confusion was overturned in District Court, and the District Court’s ruling was affirmed on appeal. Freedom Savings and Loan Association v. Vernon Way, Jr. v. Vernon Way, Jr., D/b/a Freedom Realty, 583 F. Supp. 544 (Fla. M.D. 1984); Freedom Savings and Loan Association v Vernon Way Jr., d/b/a/ Freedom Realty, 757 F.2d 1176 (11th Cir. 1985).

The Court of Appeals in Freedom Savings concluded that no likelihood of confusion exists between “Freedom Savings” and “Freedom Realty” based primarily on a subset of factors. As discussed below, the same subset of factors apply here.

The Court of Appeals in Freedom Savings found that there was third-party usage of the dominant portion of the marks - “Freedom” - and that this third-party usage weighed in favor of the defendant. Here, Opposer suggests that the dominant portion of the marks is “zill” (Dkt. 25, PDF. 16). Applicant presents evidence *supra* to show that marks bearing “zilla”, which includes “zill”, to imply a Godzilla-type parody are ubiquitous, and are used to identify a wide range of goods and services, and that such marks have been popular long before Opposer began using its “Zillow” mark.

The Court of Appeals in Freedom Savings also found that “Freedom” was a suggestive term as applied to banking services. Here, Applicant shows that “Loanzilla” is a suggestive mark as applied to mortgage brokerage services,

suggesting that Applicant brokers “Loans” and is strong and dominating like Godzilla.

The Court of Appeals in Freedom Savings also found that despite sharing an identical word, the marks “Freedom Savings” and “Freedom Realty” were not similar in overall commercial impression. Here too, Applicant shows that Applicant’s mark has a very different overall commercial impression than that of Opposer, and here “Zillow” and “Loanzilla” do not even share an identical word.

Finally, the Court of Appeals in Freedom Savings found that although the customers of both the plaintiff and the defendant were likely the same because of the relatedness of mortgage brokerage and real estate brokerage, this factor weighed in favor of the defendant “since most of these customers are making a major investment, they are likely to be especially well-informed buyers.” (*Id* at 1185).

Applicant’s customers, people seeking a home mortgage, and Opposer’s customers, people seeking information related to real estate, are sophisticated consumers making a major investment and are well-informed buyers who are unlikely to be easily confused.

It is worth pointing out that the services in Freedom Savings – mortgage brokerage and real estate brokerage – are more related than those of Opposer and Applicant in this proceeding. And yet the Court in Freedom Savings still found no likelihood of confusion between two virtually identical marks.

As stated previously, the issue here is not whether purchasers would confuse the services, but rather whether there is a likelihood of confusion as to the

source, affiliation, or sponsorship thereof. Motion Picture Association of America, Inc. v. Respect Sportswear, Inc., 83 U.S.P.Q2d 1555 (TTAB 2007) (precedential).

Applicant's mortgage brokerage services and Opposer's informational services related to real estate are offered to consumers who are about to make serious decisions and with longstanding consequences. Due to the nature of the services and the serious decisions involved in home buying, the relevant class of purchasers is not likely to be confused as to source, affiliation, or sponsorship of Applicant's and Opposer's services.

This factor strongly favors Applicant.

C. duPont Factor 3 - Channels of Trade

Under the third du Pont factor, evidence pertaining to the similarity or dissimilarity of the trade channels must be determined with respect to how the goods and services identified in the application and in the pleaded registration are marketed. In re Association of the United States Army, 85 U.S.P.Q2d 1264 (TTAB 2007)(precedential).

In regards to the internet as a Channel of Trade, the Court of Appeals for the Ninth Circuit remarks "Some use of the Internet for marketing, however, does not alone and as a matter of law constitute overlapping marketing channels." Entrepreneur Media, Inc. v. Smith, 279 F.3d 1135, 1151 (9th Cir.2002). *And see* Therma-Scan, Inc. v. Thermoscan, Inc., 63 U.S.P.Q.2d 1659 "[T]he relevant questions include: (1) "whether both parties use the Web as a substantial marketing and advertising channel," (2) "whether the parties' marks are utilized in conjunction

with Web-based products," and (3) "whether the parties' marketing channels overlap in any other way." Id. (internal quotation marks and citations omitted) (emphasis in original).

Applicant offers Applicant's mortgage brokerage services online exclusively on Applicant's website (Dkt. 23, PDF. 235 - 236). Once a customer decides to pursue a mortgage with Applicant, a meeting is scheduled to further discuss in person. Consequently, most of Applicant's mortgage brokerage service is necessarily conducted in person. Other than having a website, Applicant does not advertise. Instead, customers are made aware of Applicant's mortgage brokerage services through client referrals, real estate broker referrals, and networking. (Dkt. 23, PDF. 26, ROGS 8 - 9).

Opposer offers Opposer's real estate related information and database services on Opposer's website¹⁶. A consumer will not find Opposer's real estate information services on Applicant's website, nor Applicant's mortgage brokerage services on Opposer's website. Similarly, if one searches the internet using the terms "mortgage + broker", one does not find Opposer or Opposer's services.

Although a consumer can find Opposer's and Applicant's respective websites while surfing the internet, the same consumer can also find virtually *all* possible goods and services. The internet is, *inter alia*, the world's biggest shopping mall. For example, in a short span of time, one can buy furniture from Ikea at

¹⁶ Opposer asserts in its brief that its services have been offered through Yahoo! Real Estate and other smaller partners since 2011 (Dkt. 26, PDF.. 8), and that evidentiary support for this statement can be found in Ms. Lantz's deposition at Docket # 20 page 14; however Applicant finds no such testimony at that location. Additionally, the index of Ms. Lantz's deposition, which references all words in the deposition, does not include the word "Yahoo".

Ikea.com, and then have groceries delivered from the grocery store chain Safeway at Safeway.com¹⁷, and then can apply for a credit card at Amazon.com's credit card marketplace. That same consumer can also find the services of Opposer and Applicant, although Applicant's services will necessarily require in-person interaction. Thus, the fact that both Opposer and Applicant each have their own webpage is hardly compelling in a likelihood of confusion analysis.

As previously discussed, customers are made aware of Applicant's mortgage brokerage services through client referrals, real estate broker referrals, and networking. It is highly unlikely that one of Applicant's referred customers will be confused as to source of Applicant's mortgage brokerage services. Despite the fact that each party has their own web page, Applicant's word-of-mouth advertising for its mortgage brokerage services negates any likelihood that consumers of Opposer's informational services will be confused as to the source of each party's respective services.

This factor strongly favors Applicant.

D. duPont Factor 4 – Degree of Care Used by Purchasers

In making purchasing decisions regarding "expensive" goods, the reasonably prudent person standard is elevated to the standard of the "discriminating purchaser". Recot Inc. v M.C. Benton 54 U.S.P.Q2d 1984, 188 (Fed. Cir. 2000). *See* McGregor-Doniger, Inc. v. Drizzle, Inc., 202 U.S.P.Q 81, 92 (2nd Cir. 1979). "The greater the value of an article the more careful the typical consumer can be

¹⁷ Safeway's online grocery delivery service is available in the Puget Sound Area in the State of Washington and in Los Angeles.

expected to be; the average purchaser of an automobile will no doubt devote more attention to examining different products than will the average purchaser of a ball of twine.”

Opposer does not include the 4th duPont factor in its likelihood of confusion argument; however when discussing the 3rd duPont factor – Channels of Trade – Opposer suggests that purchasers of real estate are not careful or well-informed. To support its assertion, Opposer cites the non-precedential *ex parte* case In re Orion Mortgage Advisors, LLC¹⁸, WL 31375540 (Ser. No. 76221175) (TTAB Oct. 22, 2002)(Dkt. 26, PDF. 23 – 24). Specifically, Opposer quotes the following dicta: “real estate brokerage services and mortgage brokerage services are offered to a wide range of consumers, many of whom are not likely to be sophisticated in the buying and financing of real estate, much less capable of distinguishing between the sources of these related services”. But this quote is taken out of context because Opposer neglects to provide the immediately preceding sentence, which reads “We acknowledge that services of the type rendered by applicant and registrant might sometimes involve careful and discriminating purchases.” (*Id.* at 9). So, when put in context, it is clear that the court did not hold that purchasers of real estate are unsophisticated. Applicant suggests Opposer inappropriately relies on dicta from In re Orion to support its assertion that real estate purchasers are not careful or well-informed, and that In re Orion is not applicable in this proceeding.

Applicant asserts that purchasers of real estate are highly discriminating. For most people, a house is the most expensive purchase they will make in their

¹⁸ Available at <http://efoia.uspto.gov/Foia/RetrievePdf?system=TTABIS&flNm=76221175-10-22-2002>

lifetime. The national average sale price of a home in May 2013 was \$307,800. (Dkt. 23, PDF. 253). A 20% down payment for such a home would be more than \$60,000. It is fair to say that most consumers about to hand over \$60,000 in cash to secure a sizeable home loan are not impulse purchasers, but instead are extremely cautious and careful. See Jet, Inc. v. Sewage Aeration Systems, 49 U.S.P.Q2d, 1355 (TTAB 1990), (“The high costs of either product – and of installing a septic system in general – are likely to induce great care even in the non-expert homeowner.”) In Jet Inc., the high cost was only about \$2600, much less than a \$60,000 home down payment. And see Standard Knitting Ltd v Toyota Jidosha Kabushiki Kaisha 77 U.S.P.Q2d 1917 (TTAB 2006) (...it is clear that automobiles are expensive and would only be purchased after careful consideration, thereby reducing the risk of confusion.) And see Am General Corp. v. DaimlerChrysler Corp. 311 F.3d 796 at 828 (7th Cir. 2002) “[C]onsumers who buy or lease a vehicle that sells for more than \$16,000.00-or, in the case of the H2, more than \$50,000.00-are likely to use a very high degree of care...”.

The time and deliberation involved in purchasing a home, along with the long-term commitment and large initial deposit – especially after the recent housing crash – make home purchasers careful and deliberate in their decisions. It is highly unlikely that such a purchaser would confuse Applicant’s mark as used to identify Applicant’s mortgage brokerage services with Opposer’s mark as used to identify Opposer’s real estate software and information services.

This factor strongly favors Applicant.

E. duPont Factor 5 – Zillow’s Lack of Fame

Fame for purposes of likelihood of confusion is a matter of degree that “varies along a spectrum from very strong to very weak.” Palm Bay Imports, Inc. v. Vieve Clicquot Ponsardin Maison Fondée En 1772, 73 U.S.P.Q2d 1689 (Fed. Cir. 2005) 396 F.3d at 1375 (quoting In re Coors Brewing Co., 343 F.3d 1340, 1344 (Fed. Cir. 2003)). “Relevant factors include sales, advertising, and length of use of the mark, market share, brand awareness, licensing activities, and variety of goods bearing the mark.” Recot Inc. v M.C. Benton, 214 F.3d 1322, 1326 (Fed. Cir. 2000). “The party asserting that its mark is famous has the burden to prove it.” Leading Jewelers Guild, Inc. v. LJOW Holdings, LLC, 82 U.S.P.Q.2d 1901, 1904 (TTAB 2007).

Opposer asserts that its mark is famous in an attempt to claim rights well beyond the boundaries of its pleaded registrations. Opposer supports this assertion with evidence that includes figures from Opposer’s annual reports, samples of Opposer’s advertisements (internet, print and TV), and a list of awards obtained. But Opposer’s evidence lacks probative value and/or credibility.

1. Opposer’s figures for advertising, revenue, and unique monthly website users from Opposer’ annual reports

“Raw numbers of product sales and advertising expenses may have sufficed in the past to prove fame of a mark, but raw numbers alone in today’s world may be misleading Consequently, some context in which to place raw statistics is reasonable.” Nike, Inc. v. WNBA Enterprises, LLC, 85 U.S.P.Q2d 1187, 1197 (TTAB 2007); Bose Corp. v. QSC Audio Prods., 293 F.3d 1367, 63 U.S.P.Q2d 1303, 1309 (Fed. Cir. 2002) (*See Jansen Enterprises, Inc. v. Israel Rind and Stuart Stone*, 85

U.S.P.Q2d 1104 (TTAB 2007) where use of the mark for over twenty-five years, annual sales in the \$25- \$35 million range over fifteen years, and annual advertising expenditures during the same period in the \$1.1-\$1.6 million range were insufficient to establish the mark as a famous mark.).

Opposer asserts that its marks are renown based on Opposer's revenue, advertising expenditures, and numbers of monthly users to its website, but provides no context for these figures and fails to verify their credibility (Dkt 26, PDF. 7 – 8, 18 - 19).

For example, at Docket 26 PDF. 7 – 8, Opposer presents figures for revenue, advertising expenditures, and numbers of monthly users to its website for 2008 – 2012, and for evidentiary support points to ZILL000406, Docket # 16 (2011 Annual Report p. 2, PDF. p. 107)¹⁹; ZILL000405, Docket # 16 (2012 Annual Report p. 4, PDF. p. 268). And, Opposer states that all figures from the annual reports were authenticated by Erin Lantz, Zillow's mortgage marketing director at Dep. of E. Lantz, p. 13, Docket # 20. Applicant asserts that Ms. Lantz did not properly verify any figures from the annual reports, and objects to Opposer's use of unverified information from the 2011 and 2012 Annual Reports.

During Ms. Lantz' testimony deposition, Ms. Lantz very briefly commented on only two figures – financial revenue and monthly unique site users. The extent of Ms. Lantz's testimony regarding any figures contained in the annual report follows (Dkt. 20 PDF. 15):

10 Q. First, I just wanted to verify that the

¹⁹ Applicant notes that Opposer mistakenly misidentifies the location in the record of its 2011 annual report as being in Docket 17, and that the report is actually at Docket 16 PDF. 107.

11 financial revenue and monthly unique site user figures
12 in the 2011 and 2012 annual reports are, to the best of
13 your knowledge, accurate.
14 A. Yeah.

As shown above, Ms. Lantz very briefly comments on two figures – financial revenues and numbers of monthly site users for 2011 and 2012 – which she asserts are accurate. But Ms. Lantz’ verification has many fatal problems.

First, Ms. Lantz was never shown the annual reports or the financial revenue and monthly unique site user figures therein. The annual reports were not included in any of the deposition exhibits. Therefore, when Ms. Lantz was asked if the financial revenue and monthly unique site user figures contained in the reports were accurate, she could not have seen the figures that she was being asked to verify. Second, Ms. Lantz was never asked about the advertising expenditures, and thus never even attempted to verify the advertising expenditures.

And third, Ms. Lantz is not a financial officer; she is the Director of Zillow Mortgage Marketplace (Dkt. 20, PDF. 6). Ms. Lantz did not assist in the preparation of either of Opposer’s annual reports. Opposer admits that the person with principal responsibility for the distribution, marketing and/or sales of Opposer’s Goods and Services is Amy Bohutinsky, Chief Marketing Officer (Dkt. 23, PDF. 11, ROG. 21). And yet, Ms. Lantz, not Ms. Bohutinsky, was asked to verify the financial revenue and monthly unique site user figures from the 2011 and 2012 Annual Reports, each of which she did not prepare and was not shown during her deposition. Thus, had Ms. Lantz been shown the annual reports and the financial

revenue and monthly unique site user figures, Ms. Lantz still could not have verified the figures because Ms. Lantz is not competent to verify these figures.

Thus, none of the figures in any of Opposer's annual reports has been properly verified, and because of this all references by Opposer to the contents of the annual reports should not be given any consideration. FRE 802 (Hearsay); FRE 1002 (Best Evidence Rule).

Even if consideration was given to the financial revenue, advertising expenditures, and monthly unique site user figures, such information has very little probative value without additional information that puts the figures into context. Without the context, no meaningful correlation can be made between the figures and consumer awareness of Opposer's marks. Ms. Lantz does not provide any testimony that could give context to the financial revenue figures, advertising expenditures and monthly unique site user figures. For example, Opposer's revenue appears to be generated by selling advertising space on Opposer's website to entities interested in reaching consumers of Opposer's services/information. Opposer does not appear to be selling access to Opposer's service/information to the actual consumers of Opposer's services/information. Without an explanation as to how revenue generated from advertising sales translates into consumer awareness of Opposer's marks, the revenue/ sales figures used by Opposer have very little, if any, probative value.

2. Opposer's print, internet, and television advertising

a. Newspaper advertising

Opposer asserts that Zillow provides syndicated advertising content in the field of real estate to many newspapers nationwide (Dkt. 26, PDF. 8), but for evidentiary support Opposer points to Opposer's own blog posting (Dkt. 16, PDF. 47). Printed publications, even when properly made of record, are only probative for what they show on their face, and not for the truth of the matters contained therein, unless a competent witness has testified to the accuracy of the contents of the publication. No witness testified to the truth of the contents of the publication. Applicant objects to the use of a printed publication to assert the truth of the matters contained therein; Applicant asserts that this evidence should be given no consideration. (37 CFR § 2.122(e); TBMP 704.08(c) Other Printed Materials).

b. Internet and television advertising

Opposer suggests that in recent years it has done extensive online and television advertising. (Dkt. 26, PDF. 8). To support this assertion, Opposer uses the unverified figures in Opposer's annual reports (discussed *supra*), youtube videos, and documents that include text and graphics presented at Docket # 16 PDF. 50-83. Opposer presents no evidence of television advertisements.

Applicant asserts that the youtube videos presented at Docket # 16 PDF. 50 – 54 have very little probative value as advertising that contributes to consumer awareness of Opposer's marks. In addition, Applicant asserts that the documents

presented at Docket # 16 PDF. 55-83 have no probative value as advertising that contributes to consumer awareness of Opposer's marks.

The youtube videos presented at PDF. 50 – 54 are not national advertising, but rather uploaded videos that will only be seen by viewers who are already looking for Zillow content. As such, they do not expand the audience of Zillow's marks or services in the same way as would a national advertising campaign.

The documents that include text and graphics presented at PDF. 55 – 83, each lack a date and a web address, and are presented without context – they do not include any information that suggests they were/are advertisements, and do not include any information about where, if ever, these documents were shown. A document obtained from the Internet must be publicly available; that is, it must identify its date of publication or the date it was accessed and printed, and its source (URL). Because these documents are not publically available and they do not include any information that suggests they were/are advertisements, these documents should not be given any consideration. (37 CFR § 2.122(e); TBMP 704.08(b and c) Internet Materials and Other Printed Materials).

c. Opposer's evidence related to print media

Opposer presents a list of media titles in an effort to show consumer awareness of its mark. (Dkt. 15, PDF. 115 – 171). The list appears to be located on an internet webpage, possibly on Opposer's own web site, but the pages of the list do not include a web address or a date. And, Opposer presents no testimony to verify the contents of this list of media titles.

Applicant asserts that the list has very little probative value for establishing consumer awareness of Opposer's marks. It appears that far fewer than 10% of the titles in the list mention Zillow, and about half appear to be tangentially related to real estate, *at best*. For example, in this list Opposer includes two article titles that reference Ashton Kutcher's bachelor pad (Dkt. 15, PDF. 122), three article titles that reference football player Tim Tebow (Dkt. 15, PDF. 116), an article title that references Sandra Bullock in "Jersey Shore" (Dkt. 15, PDF. 124), an article title that references the Top 10 haunted houses (Dkt. 15, PDF. 125), an article title that references Mel Gibson unloading his Greenwich estate (Dkt. 15, PDF. 129), an article title that references the top cities for Halloween loot (Dkt. 15, PDF. 135), and two article titles about Mitt Romney unloading two mansions (Dkt. 15, PDF. 147). Many more similar titles are included in the list, which also do not mention Zillow.

Because the list is a printed publication, Applicant objects to the improperly submitted unverified list, and Opposer's use of the list to show consumer awareness of Opposer's marks. Thus, the list should not be given any consideration. (37 CFR § 2.122(e); TBMP 704.08(c) Other Printed Materials).

Opposer also provides several newspaper articles in an attempt to show public awareness of its marks as used to identify its services. (Dkt. 26, PDF. 10; Dkt. 15, PDF. 172 – 230). Of these articles, five were published in 2006, six were published in 2007, fourteen were published in 2008, six were published in 2009, and one was published 2010. Opposer does not offer a single article from 2011, 2012, or 2013. From this evidence, the "extensive, routine unpaid media coverage" alleged by Opposer (Dkt. 26, PDF. 10) appears to have been at its highest during the

housing crash, and declined to apparently none by 2011. Opposer's mark must currently be famous, not just famous at some point in time, which these several newspaper articles are used to suggest (26 articles from 2007 – 2009 vs. 1 article from 2010 - 2013).

Similarly, Opposer asserts that it “advertises extensively for its Zillow Mortgage Marketplace services” and points to an article posted on Opposer's blog that announces its acquisition of Mortech for support (Docket #20 at PDF 106). A single article presented on Opposer's own website provides little evidence of “advertising extensively” for Zillow's mortgage information related services, and should be accorded little weight, if any.

3. Opposer's evidence related to awards

In a further effort to show public awareness of its marks, Opposer alleges to have won many awards and submits a list itemizing the awards as support. (Dkt. 26, PDF. 8 – 9; Dkt. 15, PDF. 107 – 114). Again, the list appears to be located on an internet webpage, possibly on Opposer's own web site, but the page that includes this list does not include a web address or a date. And, Opposer presents no testimony to verify the contents of this list of awards. Because the list is a printed publication, Applicant objects to the improperly submitted unverified list, and Opposer's use of the list to show consumer awareness of Opposer's marks. Thus, the list should not be given any consideration. (37 CFR § 2.122(e); TBMP 704.08(c) Other Printed Materials).

In conclusion, Opposer fails to provide any credible or probative evidence that shows Opposer's marks are famous. Therefore this factor also favors Applicant.

F. duPont Factor 6 – Number and nature of similar marks in use on similar services

“Evidence of widespread third-party use can serve to diminish the strength of a mark and thus the scope of protection to which a mark is entitled.” Nike, Inc. v. WNBA Enterprises, LLC, 85 U.S.P.Q2d 1187 (TTAB 2007).

There are many live third-party registrations for marks that contain “zill”, the part of Opposer's mark that Opposer identifies as being the dominant portion. And many of the registered marks are used to identify goods and services similar to Opposer's computer software services.

As shown in Table 1, “Armedzilla” identifies services that allow “access to databases in the fields of social networking ... and access to third party web sites” (Dkt. 23, PDF. 79 – 83). “Filezilla” identifies “computer software for managing files” (Dkt. #23, PDF. 66 – 71). “Mozilla”, identifies “computer programs for access to internet” (Dkt. 23, PDF. 61 – 65). “Nursezilla” identifies “providing on-line forums for transmission of messages among health care professionals” (Dkt. 23, PDF. 148 – 150). “RevZilla” identifies “online retail store service featuring motorcycle apparel” (Dkt. 23, PDF. 84 - 89). “Shopzilla” identifies “promoting the sale of goods and services of others; providing databases featuring consumer products and merchant information” (Dkt. 23, PDF. 72 – 78).

As discussed previously, there are many other examples of commercial use of marks and domain names that use the suffix “zilla”, which are not registered but are still used in commerce. These include “Bugzilla” for a computer bug-tracker testing tool (Dkt. 23, PDF. 58 - 59)(different from the registered mark “Bugzilla” for insecticide at Dkt. 23, PDF. 54 – 57), “Clonezilla” for software (Dkt. 23, PDF. 237), “RarZilla” for software (Dkt. 23, PDF. 243), “Eventzilla” for conference management software (Dkt. 23, PDF. 244), “Zillamedia” for a collection of photography-related websites (Dkt. 23, PDF. 245), “Wikizilla”, which claims to be the encyclopedia of all things Godzilla (Dkt. 23, PDF. 246 - 247), “Rapzilla” for a Christian Hip Hop and Rap Music Online Magazine (Dkt. 23, PDF. 248), “Warpzilla” for computer software (Dkt. 23, PDF. 250), and “The Fedzilla Project” for an online information website that discusses national issues (Dkt. 23, PDF. 249).

In short, many other marks containing “zill”, registered and unregistered, are currently used to identify many different products and services including computer software related services similar to those recited in Opposer’s pleaded registrations. Thus, consumers are used to seeing “zilla” as a suffix or a prefix in marks which identify software related services as well as many unrelated goods/services, and are unlikely to mistakenly assume that all emanate from a single source.

This factor strongly favors Applicant.

G. duPont Factors 7, 8, and 12 – Actual Confusion, Concurrent Use, and Potential Confusion

The seventh, eighth, and twelfth duPont factors require one to consider evidence pertaining to the nature and extent of any actual confusion, the duration of the lack of any actual confusion, and any potential confusion. In re Association of the United States Army, 85 U.S.P.Q2d 1264 (TTAB 2007).

Applicant began offering mortgage brokerage services under Applicant's mark in June 2010. (Dkt. 23, PDF. 30, 235 - 236). Opposer began offering some of Opposer's services under Opposer's mark in February 2006. (Dkt. 23, PDF. 9, ROG response 15). Opposer began offering mortgage-related informational services in September 2008. (Dkt. 23, PDF. 18, ROG 41). Opposer admits to not being aware of any incidences of confusion between the two parties' marks during their three and a half years of co-existence. (Dkt. 23, PDF. 13, ROG. 25).

Applicant asserts that the lack of any actual confusion between the marks is due to the significant differences in the marks, the sophistication of relevant consumers as discussed *supra*, and their familiarity with the "zilla" term in relation to a wide variety of goods, especially those related to internet business and software. For example, of the many marks listed in Table 1, the most well-known is likely "Mozilla", creator of the Mozilla Firefox web browser. This mark registered in 2006 with a claimed date of first use in 2004. (Dkt. 23, PDF. 61 – 65). Like Zillow's registrations, Mozilla's federal registration identifies computer software applications. (*Id.*) The Mozilla mark and the Zillow mark often appear side-by-side,

as can be seen in Exhibit A²⁰. Consumers are exposed to many different marks containing “zilla”, or in the case of Opposer’s marks, “zill”, and in cases like “Mozilla” and “Zillow”, often the marks exist side-by-side. This frequent exposure to marks bearing “zilla” makes consumers familiar with the ubiquity of such a term, and they will look to other information to identify the source of services or goods.

Any *de minimus* potential confusion by consumers between Opposer’s marks and Applicant’s mark in relation to their respective services is further minimized by Opposer’s description of Opposer’s services on Opposer’s Zillow Mortgage Marketplace webpage, as discussed *supra* in Section 4B. Opposer states that “Zillow Mortgage Marketplace IS NOT a mortgage broker”. (emphasis in original) (Dkt. 23, PDF. 254 – 255 at 255).

The lack of any actual confusion, the common use of the “zilla” term in the software industry, the familiarity of consumers with the use of such a term, and Opposer’s own website explanation of the services that it does and does not provide are sufficient to preclude potential confusion by consumers.

This factor strongly favors of Applicant.

²⁰ Although attachments to a final brief are discouraged, Exhibit A contains documents originally submitted by Opposer, available at Dkt 15 PDF. 16 – 17, 78 – 79, 82 – 92; however, the black and white copies submitted to TTAB are very dark and parts are illegible. For this reason, Applicant has attached the color documents as served by Opposer on Applicant. Mozilla’s mark and Opposer’s mark can be found in the top header that reads “Seattle Staging Services, Other Real Estate Services – Zillow Professional Directory – Mozilla Firefox”.

H. duPont Factor 9 – The Variety of Goods on Which a Mark Is/Is Not Used.

The ninth DuPont factor in the analysis of likelihood of confusion is the relatedness of the involved goods and services. Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 U.S.P.Q. 24, 29 (CCPA 1976). “Evidence of widespread third-party use can serve to diminish the strength of a mark and thus the scope of protection to which a mark is entitled.” Nike, Inc. v. WNBA Enterprises, LLC, 85 U.S.P.Q2d 1187 (TTAB 2007).

As discussed previously in Sections IV. A. and IV. F., there are many third-party marks currently in use, registered and unregistered, that contain “zill”, the part of Opposer’s mark that Opposer identifies as being the dominant portion. And many of the marks are used to identify goods and services similar to Opposer’s computer software services. Consumers are used to seeing “zilla” as a suffix or a prefix in marks which identify software related services as well as many unrelated goods/services, and are unlikely to mistakenly assume that all emanate from a single source. This frequent exposure to marks bearing “zilla” makes consumers familiar with the ubiquity of such a term, and they will look to other information to identify the source of services or goods.

This factor strongly favors Applicant.

I. Other Factors – Zillow’s bad faith claim

Opposer attempts to unjustly and untimely assert a bad faith claim against Applicant. Opposer did not include a bad faith claim in its Notice of Opposition, and

raises the claim for the first time in its trial brief. Applicant objects to the untimely nature of Opposer's claim.

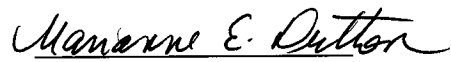
Mere knowledge of the existence of opposer's mark does not, in and of itself, constitute bad faith. *See Action Temporary Services Inc. v. Labor Force Inc.*, 10 U.S.P.Q2d 1307 (Fed. Cir 1989); Applicant has clearly and substantially explained its intent in choosing Loanzilla as its mark, the meaning of its mark, and the meaning associated with a great number of marks that incorporate "zilla" as a suffix or prefix, or those that use it as a stand-alone mark. Opposer's dissimilar mark does not share such meaning. Opposer's pleaded registrations do not include mortgage brokerage services. To prove a claim of bad faith, Opposer must provide evidence that Applicant had the intent to deceive, which clearly is not the case here. Applicant asserts that Opposer's claim of bad faith has no factually supported legal basis whatsoever and should be ignored.

V. CONCLUSION

Based on the current record, there is clear support for dismissing this opposition based solely on the significant differences in the overall commercial impression of the marks, the lack of overlap in the services of Opposer and Applicant, the sophistication of the relevant consumers, and the lack of renown of Opposer's pleaded marks. If the Board declines to do so, however, there is no question that a balancing of those and other relevant du Pont factors ultimately weights in favor of Applicant.

Dated: 27 November 2013

Respectfully submitted,
Counsel for Applicant

A handwritten signature in cursive script that reads "Marianne E. Dutton".

Marianne E. Dutton

John M. Janeway

JANEWAY PATENT LAW PLLC

Suite 508 – 2208 NW Market Street

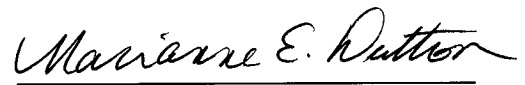
Seattle, WA 98107

(206) 206-7708

marianne@janewaypatentlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing APPLICANT'S TRIAL BRIEF has this 27TH day of November 2013 been served solely via e-mail, as agreed between the parties, to Matt.Schneller@bgllp.com.

A handwritten signature in black ink, reading "Marianne E. Dutton", written in a cursive style. The signature is positioned above a horizontal line.

Marianne E. Dutton

EXHIBIT A

The screenshot shows a Mozilla Firefox browser window with the title "Real Estate Data, Mortgage Data, API - Zillow Developer Tools". The address bar displays "http://www.zillow.com/howto/api/APIOverview.htm". The Zillow logo is in the top left, and a search bar with the placeholder "Neighborhood or City or ZIP Code or Address" and a "GO" button is in the top right. The main content area is titled "Real Estate and Mortgage Data for Your Site" and includes sections for "Turn Your Site Into a Real Estate Portal With Zillow", "Home Valuation", "Property Details", and "Neighborhood Data". A sidebar on the left lists various API-related links, and a vertical banner on the right features the "Geek Estate" logo and the text "REAL ESTATE + TECHNOLOGY = GEEK ESTATE".

Real Estate Data, Mortgage Data, API - Zillow Developer Tools - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Real Estate Data, Mortgage Data, API - Zi... +

http://www.zillow.com/howto/api/APIOverview.htm

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Zillow Neighborhood or City or ZIP Code or Address GO

Overview

- Facebook Apps
- Widgets for Your Site
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- Data for Your Site
 - API Benefits
 - API Partners
 - Branding Requirements
 - Home Valuation API
 - Neighborhood Data
 - Mortgage API
 - Property Details API
 - Neighborhood Boundaries
 - Technology Providers
 - FAQ
 - Terms Of Use
- WordPress Plugins

Real Estate and Mortgage Data for Your Site

Turn Your Site Into a Real Estate Portal With Zillow

The new Zillow API Network turns member sites into mini real estate portals by offering fresh and provocative real estate content to keep people coming back.

Home Valuation

Search results list, Zestimate®, Rent Zestimate®, home valuations, home valuation charts, comparable houses, and market trend charts.

API calls of interest:

1. [GetZestimate](#)
2. [GetSearchResults](#)
3. [GetChart](#)
4. [GetComps](#)

Property Details

Property-level data, including historical sales price and year, taxes, beds/baths, etc.

API calls of interest:

1. [GetDeepComps](#)
2. [GetDeepSearchResults](#)
3. [GetUpdatedPropertyDetails](#)

Neighborhood Data

REAL ESTATE + TECHNOLOGY = GEEK ESTATE

Geek Estate

Seattle Staging Services, Other Real Estate Services - Zillow Professional Directory - Mozilla Firefox

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All Pros

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Mortgage Lenders	382
Other Real Estate	268
Appraisal	2
Commercial R.E.	9
Escrow	7
Inspection	45
Insurance	12
Legal	17
Moving	8
Notary	9
Property Mgt.	141
Staging	11
Title	5
Other	45
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All-Stars	114
Local Experts	110

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Areas: Seattle, ...




Susan Gold PRO
Stage Right Now
★★★★★ [Write review](#)

On Zillow: 10 contributions
Specialties: Staging
Areas: Seattle, ...




Julianna Hind PRO
Roomspinners
★★★★★ [Write review](#)

On Zillow: 8 contributions
Specialties: Staging
Areas: Seattle, ...




Darik Eaton PRO
Seattle Oasis Vacation Rentals
★★★★★ [Write review](#)

On Zillow: 8 contributions
Specialties: Staging, Property Management
Areas: Seattle




Andy Capelluto PRO



Elford Park Estate
Open Sunday 1-4
Sound & Mountain Views
Keith Brandt 206.459.9761
\$1,280,000
[see details](#)

Compare Mortgage Rates

30Yr fixed: 4% 15Yr fixed: 3.21% 4.30



January 01 February 01 March 01

Compare Seattle, WA mortgage rates

Seattle Selling Process Advice

- I have my house listed for sale on Zillow. I can't figure out how to post an open house. - 3 Answers
- Please help me stage my living room. We have this cool new feature where you can tag a part of the the picture and add comments to it. I'll ... - 45 Answers
- How does Zillow's "For Sale" compare to an MLS listing? - 5 Answers

Desktop Zestimates - Yahoo! Widgets - Mozilla Firefox

File Edit View History Bookmarks Tools Help

http://widgets.yahoo.com/widgets/desktop-zestimates

Most Visited Trademark Electronic ... United States Patent ... Trademark Electronic ...

Yahoo! My Yahoo! Mail

WELCOME back, **cellinis_ego** | **Sign out**

YAHOO! WIDGETS

Search for a Widget...

Find Widgets Create Widgets Home Help! What's a Widget?

Desktop Zestimates

by **Brian**

Zillow.com
Your Edge in Real Estate

Value Any Home

Address OR Street OR Neighborhood
300 Santa Rosa Drive

City, State OR ZIP
Los Gatos, CA **GO**

300 Santa Rosa Dr
Los Gatos, CA 95032

Zestimate(TM): **\$7,156,002**
1 Wk Change: **▼ \$14,901**

See all home details

Market value change - 1 yr

\$8.00m
\$7.23m
\$6.00m
\$5.00m
\$4.47m

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Sep05 Dec Feb Apr Jun Aug

See more chart data

How much is that home worth?

Enter a U.S. address in Zillow.com's Widget search box to get the following on a home:

- Zestimate home valuation
- One-week value change
- Snapshot of home's market value for past year
- Link to home details page
- Link to home's graphs and data

You can check your home's value as often as you like, or enter any other address to get a Zestimate!

Get It!

Avg. Rating: ★★★★★ (8)
Your Rating: ★★★★★
Click a star to rate!

It's: **Fun**

Write A Review

Version: 2.0
Updated: 2006-10-12
Downloads: 6,324

More tagged search

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by **James M. Allen**
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★★★★★ (89)
- Google Images!**
by **Howard Deiner**
Downloads: 46,762
★★★★★ (61)
- woot!**
by **Scott Oliver**
Downloads: 19,791
★★★★★ (18)
- ClassAPI**
by **Yair Ben-Meir**
Downloads: 4,540
★★★★★ (9)
- SuperSuche**
by **Fabio Pigagnelli**
Downloads: 5,205
★★★★★ (8)

Zillow.com - Free Real Estate Information - Mozilla Firefox

File Edit View Go Bookmarks Tools Help

http://www.zillow.com/howto/HowTo.htm

\$145,000 Mortgage for Under \$484/Month!

Think You Pay Too Much For Your Mortgage? Find Out!

Select Your State: Alabama Select Your Rate: 3.00% - 3.99% Select Credit Type: Good

Bad Credit OK

Zillow.com Beta
Your Edge In Real Estate


Home Map & Search How to Use Zillow

Value Any Home Address OR Street OR Neighborhood City, State OR ZIP
washington, dc GO Advanced Search

Home >> How To Use Zillow™

How to Use Zillow™

Whether you're buying, selling or just want to keep a handle on your most prized possession, here's how you can use Zillow™ to get the information you want ... for free.



Buyers:

Compare home values to avoid overpaying

1. [Maps](#) - Scope out neighborhoods of interest and look at home values
2. [Comps](#) - Review recently sold homes to get a sense of neighborhood trends
3. [Zestimate](#) - Compare the homes

Sellers:

Use home valuation tools to arrive at the right selling price

1. [Zestimate™](#) - Enter your address to get an idea of what your home is worth.
2. [My Zestimator™](#) - Use this 5-step tool to further refine the estimated market

Owners:

Track the value of your most important asset

1. [Zestimate](#) - Look at the current estimated market value and other data about your home.
2. [My Zestimator](#) - Update changes you've made to your home to arrive at a revised

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http://www.zillow.com/howto/HowTo.htm

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3. [Zestimate](#) - Compare the homes estimated value to the asking price. Take the Zestimate with you to open houses.

Use home valuation tools to arrive at the right selling price

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2. [My Zestimator™](#) - Use this 5-step tool to further refine the estimated market value of your home.
3. [Comps](#) - Review comps of nearby homes to arrive at a fair selling price. See what your agent sees.

Track the value of your most important asset

1. [Zestimate](#) - Look at the current estimated market value and other data about your home.
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3. [Zindex™](#) - Find out how your home stacks up compared to others in your ZIP code.

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Exterior

1716 NE 125th St Seattle WA 98125

3 beds, 1.0 baths, 1,850 sq ft

For Sale: \$355,000My Estimate: [CREATE](#)Monthly Payment: \$ **1,970** [EDIT](#) **ING DIRECT Mortgages with Low Rates** Buying a home? [Get custom loan quotes anonymously.](#)**Photos**[ADD PHOTO](#)[See all 8 photos](#)Site User [AGENT](#) | **1048395****Home Info**[EDIT](#)

1716 Northeast 125th Street, Seattle, WA

Seller Facts:

- Single family
- 3 beds
- 1.0 bath
- 1,850 sqft

Seller's Description:

Very convenient location. 1939 home has 3 bedrooms and 1 bath. Features include new roof & furnace, large yard w storage shed, hardwood floors, fireplace, garage, & large carport. Grea ...

[more](#)**Neighborhood:**[Olympic Hills](#)**Schools:**

District: --

Primary: [Olympic Hills Elemen ...](#)Middle: [Kellogg Middle Schoo ...](#)High: [Middle College High ...](#)[See more Olympic Hills schools](#)**Similar For Sale Homes**

1/25

2902 NE 178th St
[Lake Forest Park, WA 98155](#) **For Sale \$396,000**

4 bd 2.0 ba 1,500 sqft

Days on Zillow: 84

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Listing Details:

Listing updated on: 09/01/2008
Days on Zillow: 179
MLS: 27132490

Flag listing

ZESTIMATE®: \$358,000 ?

Value Range: \$297,140 - \$383,060

30-day change: \$17,000

Zestimate updated: 11/14/2008

Last sale and tax info

2007 Property Tax: \$518



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Subject*

Message

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100

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* = Required

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1716 Northeast 125th Street, Seattle, WA



Recent comparable sales

- 🏠 Sold 08/28/2008: \$355,000
[12328 20th Ave NE](#)
- 🏠 Sold 09/26/2008: \$315,000
[12544 17th Ave NE](#)
- 🏠 Sold 08/22/2008: \$300,000
[12346 20th Ave NE](#)
- 🏠 Sold 09/05/2008: \$331,000
[12330 22nd Ave NE](#)

See all comparable homes

▶ Refine Comparables

Loan Amount: \$284,000

Loan Amount: \$284,000

Interest Rate: 5.95

Repayment Period: 30

Monthly Payment **\$1,970** Recalcul

Payment includes estimated taxes and insurance.

GO

Loan Amount:

APR	Dis/Orig Points	Rate	Fees	Date	Estimated Payments
ING Direct					
<u>6.04</u>	0.0/0.0	<u>5.250</u>	\$0	11/14	<u>\$1,806</u>
AimLoan.com					
<u>5.92</u>	0.0/0.0	<u>5.250</u>	\$1,995	11/18	<u>\$1,783</u>
National Mortgage Alliance					
<u>5.91</u>	0.0/0.0	<u>5.875</u>	\$2,425	11/17	<u>\$1,782</u>

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- ▶ See more rates

Who Lives In Olympic Hills?

The main types of people are: ?



1. **Corporate Climbers** - High-income, high-expense urban singles.
2. **Urban Empty Nesters** - Mature families with grown children.
3. **Multi-lingual Urbanites** - Urban dwellers who speak more than one language.

▶ See more Olympic Hills Real Estate Data

1716 NE 125th St, Seattle, WA 98125 | Zillow Real Estate - Mozilla Firefox

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http://www.zillow.com/homedetails/1716-NE-125th-St-Seattle-WA-98125/48708172_zpid

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Subject*

Message

SUBMIT

* = Required

Some information on page provided by Century 21

Street Map

1716 Northeast 125th Street, Seattle, WA

\$369K

\$423K

\$434K

\$368K

\$390K

\$355K

\$317K

\$305K

Microsoft Virtual Earth™

NE 125th St

Zillow.com

Zestimate® Values & Accuracy

Bird's eye view and larger map

Who Lives In Olympic Hills?

The main types of people are: ?

1. Corporate Climbers - High-income, high-expense urban singles.

2. Urban Empty Nesters - Mature families with grown children.

3. Multi-lingual Urbanites - Urban dwellers who speak more than one language.

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Meadowbrook Real Estate

Matthews Beach Real Estate

Nearby ZIP Codes

98155 Real Estate

98115 Real Estate

98133 Real Estate

98105 Real Estate

98028 Real Estate

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Olympic Hills Single Family

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Olympic Hills Mobile

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Data Coverage and Zestimate® Accuracy

The home data we have compiled to generate a **Zestimate** home valuation varies by location. Some counties provide all the data we could hope for, but others are lacking such key things as the number of bedrooms and bathrooms, or, in some cases, the square footage of the home. The more data we have, the more accurate the Zestimate. And, we've made it easier for our users to help us improve accuracy by incorporating edited home facts into our Zestimate calculations. In some areas, we might not be able to produce a Zestimate at all, but we do have some basic information on the homes. The tables below show you where we have Zestimates and other home information.

To measure the accuracy of the Zestimates, we've gone back in time and compared the historic Zestimates with the actual transaction prices of homes that sold. The tables below also provide various measures of that accuracy.

What's a Zestimate?

A Zestimate home valuation is Zillow's estimated market value. It is not an appraisal. Use it as a starting point to determine a home's value. [Learn more.](#)

Data Coverage and Zestimate Accuracy Table

Choose a location type below to change data:

- [Top Metro Areas](#)
- [States/Counties*](#)
- [National](#)

	Zestimate Accuracy	Homes on Zillow	Homes With Zestimates	Within 5% of Sale Price	Within 10% of Sale Price	Within 20% of Sale Price	Median Error
Atlanta-Sandy Springs-Marietta, GA MSA	★★★★★	99%	99%	25%	45%	66%	11.6%
Baltimore-Towson, MD MSA	★★★★★	99%	99%	30%	50%	71%	10.0%
Boston-Cambridge-Quincy, MA-NH MSA	★★★★★	95%	95%	27%	48%	71%	10.7%
Chicago-Naperville-Joliet, IL-IN-WI MSA	★★★★★	99%	94%	29%	51%	74%	9.8%
Cincinnati-Middletown, OH-KY-IN MSA	★★★★★	93%	88%	30%	52%	75%	9.6%
Cleveland-Elyria-Mentor, OH MSA	★★★★★	99%	99%	25%	44%	67%	11.7%
Dallas-Fort Worth-Arlington, TX MSA	★★★★★	99%	99%	34%	57%	81%	8.1%
Denver-Aurora, CO MSA	★★★★★	99%	99%	28%	48%	70%	10.5%
Detroit-Warren-Livonia, MI MSA	★★★	87%	82%	15%	27%	47%	22.0%
Houston-Baytown-Sugar Land, TX MSA	★★★	99%	99%	22%	42%	68%	12.3%
Kansas City, MO-KS MSA	★★★★★	91%	53%	23%	46%	72%	11.2%
Los Angeles-Long Beach-Santa Ana, CA MSA	★★★★★	88%	88%	24%	45%	70%	11.7%
Miami-Fort Lauderdale-Miami Beach, FL MSA	★★★	99%	99%	16%	30%	53%	18.5%
Minneapolis-St. Paul-Bloomington, MN-WI MSA	★★★★	99%	99%	23%	43%	68%	12.2%
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA	★★★	99%	99%	22%	41%	66%	12.7%

Last updated: October 1, 2008

* Click on a state to see detailed county data (accuracy based only on counties for which we have data)

Note: Zestimate accuracy is computed by comparing the final sale price to the Zestimate on or before the sale date. The data herein is



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homes:

Address, neighborhood, city, OR zip

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My Estimate for 1716 NE 125th St

To create your own estimate, please update or provide information in the fields below. [Learn more](#)

Update Home Facts

Residence: # stories:
Bedrooms: Square feet:
Bathrooms: Year built:
Total rooms:

Add Home Improvements

Feature type*: ?
Description:
Completed*: Cost*: \$ Market value: \$?

Market value source: [Remodeling 2007 Cost vs. Value Report](#)

[Choose Comparable Homes](#)

[Add Comments](#)

Estimate Total

\$ 358,000 Original Zestimate
\$ 0 Home Facts
\$ 0
Home Improvements
\$ 0 Comp Selection

\$358,000

Value Range: \$263,000 - \$388,000

Are you the owner of this home? * ☐ Yes ☒ No

* = Required

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1716 NE 125th St Seattle WA 98125

3 beds, 1.0 baths, 1,850 sq ft

For Sale: **\$355,000**

My Estimate: [CREATE](#)

Zestimate Information

Zestimate: **\$358,000**

30-day change: \$17,000

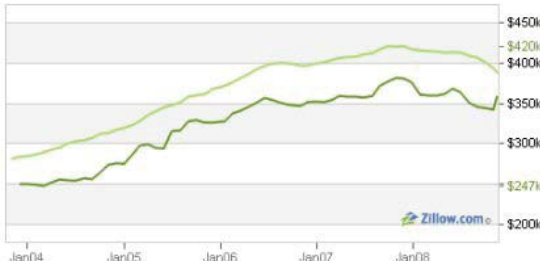
Value Range: \$297,140 - \$383,060

Last updated: 11/14/2008

Market Value Change

Show: **\$ Dollar** | % Percentage

Time frame: [1YR](#) [5YR](#) [10YR](#)



Compare:
☒ This home ☒ 98125 ☐ Seattle
☐ King ☐ WA ☐ USA ☒ Show sales

Sales History

Sale History

No sale history is available for this home

Tax Information

Learn More About This Home

CENTURY 21 North Homes Realty, Inc.

Michiko Macbride

Reach Me By: ☐ e-mail ☐ phone ☐ both


*First Name

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6.04	0.0/0.0	5.250	\$0	11/14	\$1,806	
5.92	0.0/0.0	5.250	\$1,995	11/18	\$1,783	
5.91	0.0/0.0	5.875	\$2,425	11/17	\$1,782	

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1 of 84 [See homes in a list](#)

213 17th Ave E

For Sale: \$159,900
0 bd 1 ba 0 sqft
Days on Zillow: 4

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Capitol Hill

Sorted by most matching results [See homes in a list](#)

Broadway (191)

Region **Median Price:** \$399,950 **Index:** \$393,000
Population: 4,792

For Sale (540)
540 matching results

☐ Open Houses Only

Listing Type:

☒ Any

☐ For Sale By Owner

☐ New Construction

☐ Foreclosures

Type: Any

Price: Any

Beds: Any

Baths: Any

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Year: Any

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Dis/Orig	APR	Points	Rate	Fees	Date	Estimated Payments
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AimLoan.com	5.92	0.0/0.0	5.250	\$1,995	11/18	\$1,783
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1. [Maps](#) - Scope out neighborhoods of interest and look at home values
2. [Comps](#) - Review recently sold homes to get a sense of neighborhood trends
3. [Zestimate](#) - Compare the homes estimated value to the asking price. Take the Zestimate with you to open houses.

Use home valuation tools to arrive at the right selling price


1. [Zestimate™](#) - Enter your address to get an idea of what your home is worth.
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